REMARKS

Claim 1-17 remain in the application, with claims 1 and 17 being independent. Many car wash systems include the components of this application and the 3,279,093 patent to Dutton. However, the subject invention differs in the sensors and controller by sensing the vehicle contour from above with three sensors and a controller programmed to actuate the system in a novel combination of events in response to the sensors. It is not appropriate to brush aside the sensors and controller as being obvious when there is no suggestion of the combination including a controller to perform novel sequences. The MPEP requires more:

The law is adequately set forth in the MPEP:

2143.03 All Claim Limitations Must BeTaught or Suggested [R-1]

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837, F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

2142 Legal Concept of *Prima Facie* Obviousness [R-1]

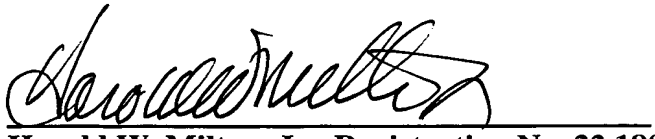
> . . . The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness . . .
>
> ESTABLISHING A *PRIMA FACIE* CASE OF OBVIOUSNESS
>
> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

> limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §243 - §2143.03 for decisions pertinent to each of these criteria.
>
> The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. Applicant believes that no fees are due, however, if any become required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789. Further and favorable reconsideration of the outstanding Office Action is hereby requested.

Respectfully submitted

HOWARD & HOWARD ATTORNEYS, P.C.



June 13, 2005
Date

Harold W. Milton, Jr., Registration No. 22,180
The Pinehurst Office Center, Suite #101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304-5151
(248) 723-0352

CERTIFICATE OF MAILING

I hereby certify that this **Amendment** for U.S. Serial No.: 10/711,315 filed September 10, 2004 is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **June 13, 2005**.

Anne L. Kubit

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